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10/502,017

12/17/2004

Anders Jonsson

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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/502,017
Filing Date: December 17, 2004
Appellant(s): JONSSON, ANDERS

Mark P. Stone
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/14/2010 appealing from the Office action mailed 3/02/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:
1-20.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

5,071,184	Dessaux et al.	12-1991
4,989,652	Hansson et al.	02-1991
5,988,126	Strauss et al.	11-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dessaux et al 5,071,184 and in view of Hansson et al 4,989,652.

3. In Re Claim 1, Dessaux et al teaches a rotator (Fig. 1, Device) for a jib-carried tool, including tree working units, wherein the rotator includes a stator (Fig. 4, Pulley Block Body 11) and a rotor (Fig. 4, Grappling Element 15), and wherein said rotator is connected to a tip (Fig. 1, Tip 7) of the jib or arm (Fig. 1, Boom 3) via a link arrangement

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(Fig. 1, Lifting Cable 4) and to said tool (Fig. 1, Turning Hook 9) , characterized in that the rotator or its surroundings includes means for determining the relative position of rotation between the rotor and the stator and limiting the extent of rotation of the rotor relative to the stator based upon said determined relative position for limiting twisting of attached hoses and/or cables and to enhance automatisisation (Column 3, Lines 25-31).

4. With regards to “means for (70, 71) for determining the relative position of rotation between rotor (30) and stator (20)”. This limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6th paragraph. In the instant specification, page 3, lines 34 – 37 and page 4 lines 1 thru 6, the said means for determining the relative position of rotation between rotor (30) and stator (20) is shown as pulse emitter (70) and grooves (71) in Fig. #2. Dessaux ‘184 discloses a relative position sensor as a means for determining the relative position of rotation between rotor (Fig. 4, Grappling Element 15) and stator (Fig. 4, Pulley Block Body 11), (Column 4, Lines 50 thru 54). A relative position sensor as a means for determining relative position of rotation between a rotor and a stator is considered to be interchangeable with the applicants pulse emitter and grooves because it produces substantially the same result as the corresponding element in applicant's specification. See MPEP 2183.

7. Dessaux ‘184 does not teach a hydraulically driven rotator.

8. However, Hansson '652 in Column 2, Lines 54 thru 56 teaches a hydraulically driven rotator.

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9. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a hydraulically driven rotator as taught by Hansson '652 in order to drive the rotator without electricity.

10. In Re Claim 9, under the principles of obviousness, if a prior art combination, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be obvious over the prior art combination. When the prior art combination is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will obviously perform the claimed process. *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986). MPEP 2112.02

11. Claims 2 thru 8 and 10 thru 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dessaux '184/Hanson '652 as applied to claims 1 and 9 above, and further in view of Strauss et al 5,988,126.

12. In Re Claim 2, Dessaux '184/Hanson '652 has been discussed above, but does not teach using a pulse emitter and pulse generating elements as the means for determining the relative position of rotation.

13. However, Strauss '126 teaches a pulse emitter (19) with pulse generating elements for determining the relative position of rotation of a rotating element. (Column 5, Lines 38 thru 47).

14. Because both Dessaux '184 and Strauss '126 teach methods for determining the relative position of a rotating object it would have been obvious to one skilled in the art at the time of the invention to substitute the rotary sensor of Dessaux '184/Hanson '652

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with the pulse emitter and pulse generating elements of Strauss '126 to achieve the predictable result of determining the relative position of the rotor with respect to the stator. *KSR Int'l Co. V. Teleflex Inc.* 550 U.S.____, 82 USPQ 2d 1385 (Supreme Court 2007) (KSR)

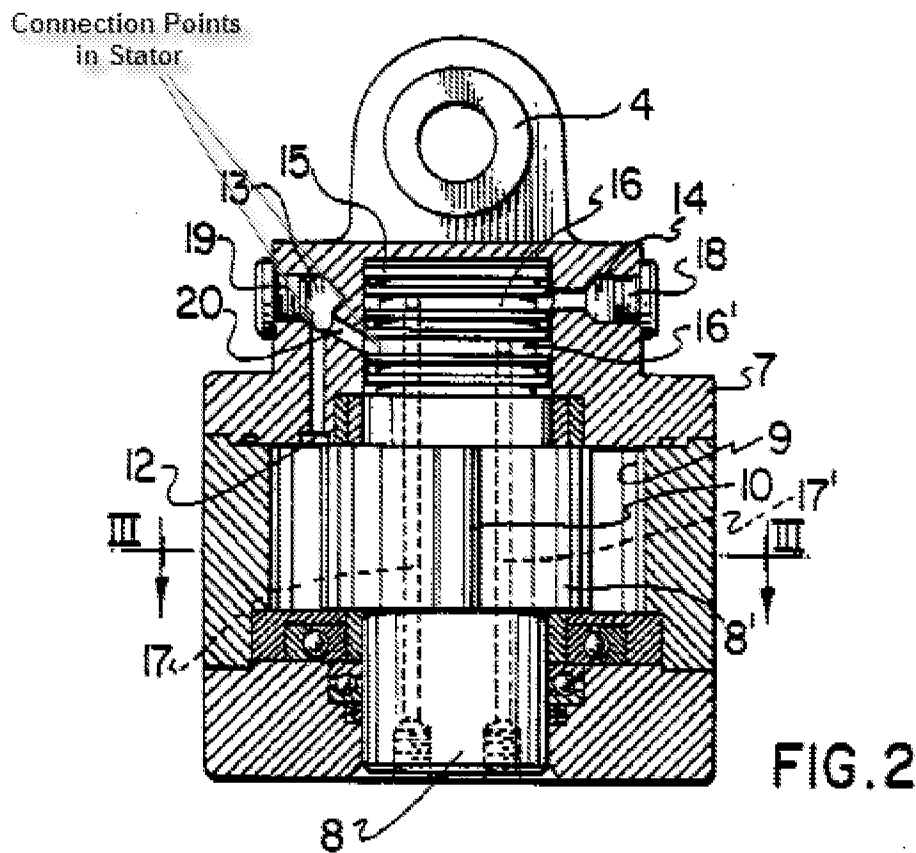
15. In Re Claim 4, Dessaux '184 teaches a means for determining the relative position of rotation of the rotor that is carried by the stator. Dessaux '184 does not teach using pulse generating elements carried by the rotor.

16. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the pulse generating elements carried by the stator, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In Re Japikse*, 86 USPQ 70. Please note that in the instant application, page 4, lines 20 thru 24, applicant has not disclosed any criticality for the claimed limitation.

17. In Re Claim 3, Dessaux '184 as discussed above discloses the claimed invention except for the rotor carrying the pulse emitter and the stator carrying the pulse generating elements. It would have been obvious to one having ordinary skill in the art at the time the invention was made to reverse the location of the pulse emitter and pulse generating elements of claim 4 above, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167. Please note that in the instant application, page 4, lines 20 thru 24, applicant has not disclosed any criticality for the claimed limitations.

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18. In Re Claim 5, In Column 3 Lines 5 thru 15 Hansson teaches, a rotator according to Claim 1, characterized in that a supply of pressure medium to the rotator is effected through the medium of connection points in the stator. FIG. 2



19. In Re Claim 6, Hansson '652 teaches, a rotator according to Claim 1, characterized in that a supply of pressure medium to the tool is effected through the medium of a swivel coupling (Fig. 2, Swivel Connection 15) and through the medium of channels in the rotor (Fig. 2, Second Duct 17, 17'). See Figure 2 above.

20. In Re Claims 7 and 8, Dessaux '184 teaches:

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A rotator according to Claim 1, characterized in that a supply of pressure medium to the tool is effected through the medium of at least one transit hole (Fig. 4, Orifice 44) extending longitudinally through the rotor.

A rotator according to Claim 1, characterized in that the supply of electric power and/or the supply of signals to the tool is effected through the medium of at least one transit hole (Fig. 4, Orifice 44) extending longitudinally through the rotor.

21. In Re Claim 10, Hansson '652 teaches a rotator (Fig. 1, Rotator 3) according to Claim 2, characterized in that a supply of pressure medium (Fig. 1, Hydraulic Hoses 5) to the rotator is effected through the medium of connection points in the stator (Fig. 2, Housing 7). Fig. 2 Above

22. In Re Claim 11, Hansson '652 teaches a rotator (Fig. 1, Rotator 3) according to Claim 3, characterized in that a supply of pressure medium (Fig. 1, Hydraulic Hoses 5) to the rotator is effected through the medium of connection points in the stator (Fig. 2, Housing 7). Fig. 2 Above.

23. In Re Claim 12, Hansson teaches a rotator (Fig. 1, Rotator 3) according to Claim 4, characterized in that a supply of pressure medium to the rotator (Fig. 1, Hydraulic Hoses 5) is effected through the medium of connection points in the stator (Fig. 2, Housing 7).

24. In Re Claim 13, Hansson '652 teaches a rotator according to Claim 2, characterized in that the supply of pressure medium (Fig. 1, Hydraulic Hoses 7) to the tool (Fig. 1, Unit 1) is effected through the medium of a swivel coupling (Fig. 2, Swivel

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Connections 15) and through the medium of channels (Fig. 2, Second Duct 17, 17') in the rotor (Fig. 2, Shaft 8).

25. In Re Claim 14, Hansson '652 teaches A rotator according to Claim 3, characterized in that a supply of pressure medium (Fig. 1, Hydraulic Hoses 7) to the tool (Fig. 1, Unit 1) is effected through the medium of a swivel coupling (Fig. 2, Swivel Connections 15) and through the medium of channels (Fig. 2, Second Duct 17, 17') in the rotor Fig. 2, Shaft 8).

26. In Re Claim 15, Hansson '652 teaches a rotator according to Claim 4, characterized in that a supply of pressure medium (Fig. 1, Hydraulic Hoses 7) to the tool (Fig. 1, Unit 1) is effected through the medium of a swivel coupling (Fig. 2, Swivel Connections 15) and through the medium of channels (Fig. 2, Second Duct 17, 17') in the rotor Fig. 2, Shaft 8).

27. In Re Claim 16, Dessaux '182 teaches at least one transit hole (Fig. 4, Orifice 44) extending longitudinally through the rotor.

28. In Re Claim 17, Dessaux '182 teaches at least one transit hole (Fig. 4, Orifice 44) extending longitudinally through the rotor.

29. In Re Claim 18, Dessaux '182 teaches at least one transit hole (Fig. 4, Orifice 44) extending longitudinally through the rotor.

30. In Re Claim 19, Dessaux '182 teaches at least one transit hole (Fig. 4, Orifice 44) extending longitudinally through the rotor.

31. In Re Claim 20, Dessaux '182 teaches at least one transit hole (Fig. 4, Orifice 44) extending longitudinally through the rotor.

(10) Response to Argument

32. Dependent claims 2-8 and 10-20 stand or fall with Independent Claims 1 and 9. Because Applicant has grouped Claims 1 and 9 together in the Arguments section, they stand or fall together.

33. In response to Applicant's argument that, "although the above-quoted portion of the Dessaux patent discloses different sensors, it fails to teach or suggest " ... means for determining and limiting the extent of rotation of the rotor relative to the stator based upon said determined relative position for limiting twisting of attached hoses and/or cables ..." (independent claim 1) or "...determining...and limiting the angle through which the rotator (10) rotates in either direction from a starting position based upon the determined relative position of the rotor and stator for limiting the extent to which connection cables (7) including...are able to twist...", the Examiner notes that With regards to "means for (70, 71) for determining the relative position of rotation between rotor (30) and stator (20)". This limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6th paragraph. In the instant specification, page 3, lines 34 – 37 and page 4 lines 1 thru 6, the said means for determining the relative position of rotation between rotor (30) and stator (20) is shown as pulse emitter (70) and grooves (71) in Fig. #2. Dessaux '184 discloses a relative position sensor as a means for determining the relative position of rotation between rotor (Fig. 4, Grappling Element 15) and stator (Fig. 4, Pulley Block Body 11), (Column 4, Lines 50 thru 54). A relative position sensor as a means for determining relative position of rotation between a rotor and a stator is considered to be interchangeable with the applicants pulse emitter and

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grooves because it produces substantially the same result as the corresponding element in applicant's specification. See MPEP 2183. Also, in Column 1, Lines 41-47 Dessaux states "In these two embodiments, two problems must be overcome, i.e., on the one hand, first maintaining sufficient mechanical tension on the feed and remote control cable and, second, protection against the risk of shearing and deterioration of the feed and remote control cable in event the lifting cables become twisted", teaching limiting twisting of attached hoses and/or cables. Fig. 2 of Dessaux et al. shows cables 25, 27, 26, and 28 where the cables are not twisted.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/G. M./

Glenn Myers

Examiner, Art Unit 3652 12/13/10

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